

**DECLARATION OF MARK PASSAMANECK**

1. My name is Mark Passamaneck. I am over the age of 18 and have personal knowledge of the matters set forth in this Declaration.
2. I have extensive knowledge of firearms. I have designed magazines, barrels, muzzle devices, gas blocks and complete firearms for manufacturers. I have extensively tested firearms, ammunition and accessories. I have conducted shooting reconstructions related to both intentional and unintentional firing of firearms. I have been admitted in courts as a firearms expert and as a ballistics expert. I hold several training certifications and I have trained and coached shooting in a wide array of disciplines.
3. From 1911 to 1986, the United States Army issued Colt M1911 pistols to its soldiers as the primary side arm. While most infantry soldiers were issued rifles, officers, corpsmen and others were issued M1911s for defense against over-run positions and internal security. During that time period, other branches largely followed the Army's lead and also issued M1911s in large numbers. The 1911, as sold to civilians, was identical in capacity and operation as the military version. The handgun was also used by civilian law enforcement during the same time period, along with numerous other handguns, and still is today. The Colt 1911 (designated the M1911) was used by soldiers in World War I, World War II, Korea, and Vietnam. Versions of the 1911 pistols are in use by several special units within the military establishment to this day. Originally produced by Colt, chambering the .45 Automatic Colt Pistol (.45 ACP) cartridge, when patent protection ceased, it became one of the most sought after pistol designs for target shooting. US citizens use the 1911 currently, in large numbers for self-defense, target shooting, and competition. Besides Colt, there have been close to 100 manufacturers of 1911 style pistols sold to civilians with the same operating systems.



4. In 1986 the Army began to issue Beretta M9 pistols to its soldiers. The Beretta Model 92 FS, chambered in 9mm Nato, is the same pistol, predating the military adoption, that was sold to civilians. The M9 was also used by soldiers in war (the Gulf War, Iraq, Afghanistan, etc.). Like the Colt 1911, when the M92 patent expired, it was not long before other manufacturers produced and sold similar pistols to civilians with a variety of aesthetic features and in a variety of calibers. However, the operation and function were the same for all of these models. They are widely possessed by civilians and have also served as the sidearm for US civilian police officers. These pistols are also used in large numbers by citizens for self-protection, target shooting and competition.

5. Colt and Beretta have all along sold identical models of these semi-automatic handguns in the civilian market, and they are widely possessed by civilians. Furthermore, the multitude of manufacturers of the same design significantly increase the number models and possession of these pistols by citizens in the United States.

6. Detachable magazines are necessary to make semi-automatic firearms operate safely and effectively. Without such magazines, semi-automatic firearms are inoperable. The feed angle, magazine spring pressure, and feed ramps are all design features coupled between the magazine (when inserted into the magazine well) and the firearm to ensure function as intended. Magazines, by nature and with use, are wear items that must be periodically replaced. The largest percentage of semi-automatic firearms failures are due to damage, or wear, of the magazines.

7. Magazines are not merely a box in which ammunition is stored. Rather, it is a dynamic component that performs a function in any semi-automatic firearm. The magazine



holds cartridges under spring tension, and when a semi-automatic firearm is fired, the spring pushes another cartridge up for the bolt to push into the chamber so that it can be fired with the next pull of the trigger. If there is no magazine pushing cartridges up into the action, one by one, there is no ability to fire a subsequent cartridge due to a subsequent pull of the trigger, which is the defining characteristic of a semi-automatic weapon. Thus, without magazines as a designed dynamic component, semi-automatic firearms would not exist. In other words, a magazine is a necessary and integral part of the operation of every semi-automatic firearm.

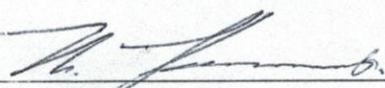
8. As noted, magazines are intrinsic to semi-automatic firearms, and without the spring pressure of the magazine holding the cartridge in the proper orientation to the bolt or breech face, a semi-automatic firearm is unreliable, unsafe, and subject to being damaged. The interaction of the extractor and ejector to the cartridge as it is loaded into the chamber is necessary to ensure safe and reliable function. Closing the action of a semi-automatic firearm after a cartridge has been placed manually into the chamber may damage the extractor and or ejector. Furthermore, since the case head of the cartridge cannot be held in proper relation to the bolt or breech face, the action may not fully close. This is called an “out of battery” condition and the firearm, depending on degree of the out of battery condition, may not fire at all, or may fire with a resulting case rupture that is dangerous to the user and damaging to the firearm. On those firearms (such as the AR15) with a floating firing pin, closing the action on a chambered round without the necessary magazine in place can result in an unintended discharge without a pull of the trigger known as a “slam-fire.” This is obviously a dangerous condition, and while rare, closing the bolt without the magazine in place increases the chances of a slam-fire.



9. There are several semi-automatic .223 (and or 5.56) chambered rifles available that do not have the features associated with "assault weapons," as defined. For example, the Ruger Mini 14 has been, over the years, produced in several variations with model names such as "Ranch", "Tactical", "Target" and others, none of which have "assault weapon" features. Other examples are the SLR-106 in .223, Bushmaster the ACR in .223, FN the SCAR in .223, CZ-USA the 805 Bren S1. H&K produces the Model 630. Saiga, Century Arms, Kel-Tec, Benelli, Volquartsen and Remington have also produced semi-auto .223 chambered rifles with conventional, non-military features.

10. Beginning in 1858, Remington manufactured revolvers known as the 1858 Army and the 1858 Navy. These firearms had a detachable cylinder. Spare cylinders could be preloaded with ammunition and carried separately. This feature, like a detachable magazine, offered the option of a speedy reload. With a little practice, the empty cylinder could be removed and swapped with a loaded cylinder in just a few seconds.

I, Mark Passamaneck, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that I have reviewed the foregoing, that I am competent to testify in this matter, and that the facts contained therein are true and correct

  
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Mark Passamaneck

Date: February 24, 2023